

**DRAFTING SUGGESTIONS OF  
NATIONAL FUEL GAS SUPPLY CORPORATION  
FOR DISCUSSION AT THE MAY 21, 2002 STAFF TECHNICAL CONFERENCE  
IN DOCKET NO. RM01-10-000**

The following drafting suggestions are being offered for discussion purposes only and should not be regarded as a formal proposal by National Fuel. These suggestions are focused on some areas of particular concern to National Fuel, and do not address every recommendation appearing in National Fuel's filed comments.

The first suggestion is intended to maintain the current scope of the gas marketing affiliate rule with respect to LDC's. The second and third categories of suggestions are intended to clarify or modify the independent functioning and disclosure provisions in certain respects, and are not intended as an alternative to the first suggestion regarding LDC's.

**1. Language to maintain the current scope of the rule with respect to LDC's.**

**§358.3 Definitions.**

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(ii) The definition of energy affiliate excludes .....(3) local gas distribution companies to the extent that they do not engage in transmission transactions with affiliated transmission providers with respect to off-system sales, except as determined by the Commission.

[THIS WOULD REVISE THE DEFINITION OF ENERGY AFFILIATE  
APPEARING IN THE STAFF PAPER]

**2. Language relating to the separation of functions.**

**§358.4 Independent functioning.**

**(a) Separation of functions.**

(1) Except as necessary to engage in communication subject to Sections 358.5(b)(4)-(5), and to the maximum extent practicable, the operating transmission function employees of the transmission provider must function independently of the transmission provider's marketing or sales operating employees, and its energy affiliates' operating employees.

(2) Transmission providers within the scope of §358.3(a)(1) are prohibited from permitting its sales and marketing employees or employees of its energy affiliates from:

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**Deleted:** <#>Notwithstanding any other provisions in this section, in emergency circumstances affecting system reliability, transmission providers may take whatever steps are necessary to keep the system in operation. Transmission providers must report to the Commission and post on the OASIS or Internet website, as applicable, each emergency that resulted in any deviation from the standards of conduct, within 24 hours of such deviation.¶

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(i) conducting transmission system operations or reliability functions; and (ii) having access to the system control center or similar facilities used for transmission operations or reliability functions that differs in any way from the access available to other transmission customers.

### 3. Language concerning non-discrimination requirements

#### § 358.3 Definitions.

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(k) Transmission information means any information concerning the transmission system of the transmission provider or the transmission system of another about available transmission capability, price, curtailments, ancillary services, balancing, maintenance activity with a significant impact upon capacity, capacity expansion plans, or similar information.

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[THIS IS A NEW DEFINITION, SHOWING CHANGES TO THE LANGUAGE LIFTED FROM §358.5 (b) OF THE NOPR'S REG TEXT]

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#### § 358.5 Non-discrimination requirements.

##### (a) Information access.

(1) Except to the extent required to utilize the services of shared non-operating employees, and except as provided in Sections 358.5(b)(4)-(5), the transmission provider must ensure that any employee of the transmission provider engaged in marketing or sales or any employee of any energy affiliate may only have access to transmission information available to the transmission provider's transmission customers (i.e., the information posted on the OASIS or Internet website, as applicable) and must not have access to transmission information about the transmission provider's system that is not available to all users of an OASIS or Internet website, as applicable.

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(2) Except to the extent required to utilize the services of shared non-operating employees, and except as provided in Sections 358.5(b)(4)-(5), the transmission provider must ensure that any employee of the transmission provider engaged in marketing or sales or any employee of any energy affiliate is prohibited from obtaining transmission information about the transmission provider's system through access to information not posted on the OASIS or Internet website or that is not otherwise also available to the general public without restriction.

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(3) The transmission provider must ensure that any employee of the transmission provider engaged in marketing or sales or any marketing or sales employee of any energy affiliate is prohibited from obtaining any information that may not be shared with such employee by reason of Section 388.5(b)(2).

(b) Prohibited disclosure.

(1) Except to the extent required to utilize the services of shared non-operating employees, and except as provided in Sections 358.5(b)(4)-(5), an employee of the transmission provider may not disclose to its marketing or sales employees, or to employees of the transmission provider's energy affiliates any transmission information through access to information not posted on the OASIS or Internet Website that is not contemporaneously available to the public, or though information on the OASIS or Internet website that is not at the same time publicly available.

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Deleted: concerning the transmission system of the transmission provider or the transmission system of another (including, but not limited to, information received from non-affiliates or information about available transmission capability, price, curtailments, ancillary services, balancing, maintenance activity, capacity expansion plans, or similar information) through non-public communication conducted off the OASIS or Internet website,

(2) A transmission provider may not share any information, acquired from a nonaffiliated transmission customer, or nonaffiliated potential transmission customer, or developed in the course of responding to requests for transmission or ancillary service on the OASIS or Internet website, with its marketing or sales employees or the marketing or sales employees of an energy affiliate without the consent of such customer or potential customer, except to the limited extent information is required to be posted on the OASIS or Internet website in response to a request for transmission service or ancillary services, and except as provided in Section 358.5(b)(5).

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(4) A transmission provider may communicate information transmission information to its marketing or sales employees or energy affiliate employees to the limited extent such communication is required (i) to negotiate, enter into, perform under, or administer specific contracts or amendments for jurisdictional service or for the construction of interconnections or other facilities, or (ii) to plan facilities projects or potential facilities projects with other facility operators.

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(5) [this is a placeholder for an exemption of operational/reliability information]